

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**STATE OF TEXAS and  
LUBBOCK INDEPENDENT SCHOOL  
DISTRICT,  
*Plaintiffs,***

**V.**

**XAVIER BECERRA**, in his official  
capacity as Secretary of Health and  
Human Services, *et al.*,  
*Defendants.*

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**CIVIL ACTION No. 5:21-CV-300**

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

Plaintiffs the State of Texas and Lubbock Independent School District move for a temporary restraining order and preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure.

As set forth more fully in the brief filed in support of this motion, injunctive relief is warranted because Plaintiffs are likely to prevail on their claims that the Vaccine Mandate and Mask Mandate adopted by Defendants 86 Fed. Reg. 68,052 (November 30, 2021) is unlawful. Defendants lacked statutory authority to adopt it, failed to follow required procedures for adopting a rule, acted arbitrarily and capriciously when adopting the mandate, and made other legal errors. Moreover, the Vaccine Mandate and Mask Mandate will cause irreparable harm by requiring Head Start programs to terminate staff, contractors, and volunteers who fail to submit, by forcing some Head Start programs to shut down or cut back for lack of staff, and to expel children whose families fail to submit.

For the reasons discussed here and in Plaintiffs' brief in support, the Court should grant Plaintiffs' request for a temporary restraining order and preliminary injunction.

Respectfully submitted,

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### **CERTIFICATE OF CONFERENCE**

We hereby certify that it was not possible to confer because we do not yet know who has been assigned to defend Defendants. Under Local Rule 7.1(b)(3), this motion is presumed to be opposed.

/s/ Charles K. Eldred   /s/ Amy S. Hilton  
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### **CERTIFICATE OF SERVICE**

We certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on December 14, 2021 and sent via CMRRR to the following:

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